



United States Army Medical Research Acquisition Activity USAMRAA



TAKING THE MYSTERY OUT OF SOLE SOURCE JUSTIFICATIONS

Acquisition Stand Down
October 2006

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Taking the Mystery Out of Sole Source Justifications



- ▶ The Key Propositions
- ▶ What We Need
- ▶ Basis for the Justification
- ▶ What Else?
- ▶ Special Cases

The Key Propositions



- ▶ The justification must match the Government's minimum requirements to the contractor's unique qualifications.
- ▶ Best does not equal only.

Matching Requirements to Qualifications



- ▶ **Block 3, Description of Supplies/Services (Lock)**
 - ◆ The USAMRMC requires a file archiving system that is searchable by key words, capable of storing records up to 4 MB, and is compliant with the latest DOD network security requirements.
- ▶ **Block 5, Reason for Authority Cited (Key)**
 - ◆ There are many archiving systems that are searchable by key words, and four of these are also capable of storing records up to 4 MB. Of these four, only the system offered by Archiving Associates is compliant with the latest DOD network security requirements.

What We Need



- ▶ **Market research**
 - ◆ A shared responsibility
 - ◆ Use the Internet, trade journals, conferences
 - ◆ Ask a range of experts
 - ◆ Ask other users
 - ◆ Document the results

What We Need (2)



- ▶ Document the Government's minimum requirements. Define the discriminating characteristic(s).
 - ◆ Physical
 - ◆ Performance
 - ◆ Ownership

Physical Characteristics



- ▶ Footprint, cube, and weight
- ▶ Often seen in operational environments

Performance Characteristics



- ▶ Speed
 - ▶ Throughput
 - ▶ Ability to meet delivery requirements
 - ▶ Ability to meet quality standards
 - ▶ Certifications/Approvals
-
- ▶ **Is experience a performance characteristic?**

Experience



- ▶ A source selection discriminator
- ▶ Not a performance characteristic, but which characteristics are influenced?
 - ◆ Ability to meet delivery requirements
 - ◆ Ability to meet quality standards

Ownership



- ▶ Compatibility
- ▶ Interface
- ▶ Proprietary information or process
- ▶ Exclusive licenses
- ▶ Source code or computer programs

What Else Do We Need?



- ▶ What can we do in the future to make this a competitive requirement?
 - ◆ Acquire drawings, specifications or data
 - ◆ Break the effort into smaller segments

Special Cases



- ▶ Follow-on contract for continued development of a system or specialized equipment
- ▶ Follow-on contract for continued provision of specialized services
- ▶ Logical follow-on to a previously competed order
- ▶ Unusual and compelling urgency

Follow-on Contracts for Major System or Specialized Equipment



- ▶ Authority is 6.302-1
- ▶ Award to any other source would cause
 - ◆ Substantial duplication of cost, not recovered through competition; or
 - ◆ Unacceptable delays in fulfilling the requirement

Follow-on Contracts for Highly Specialized Services



- ▶ Authority is 6.302-1 (applicable to DOD, NASA, Coast Guard only)
- ▶ Award to any other source would cause
 - ◆ Substantial duplication of cost, not recovered through competition; or
 - ◆ Unacceptable delays in fulfilling the requirement
- ▶ Not a reason to avoid recompetition in most cases
- ▶ How specialized is highly specialized?

Logical Follow On to a Previously Competed Order



- ▶ Authority is FAR 8.405-6 for orders against GSA schedules
- ▶ Authority is FAR 16.505(b)(2)(iii) for orders against IDIQ contracts
- ▶ Issued in the interest of economy and efficiency, provided original order was competed

Unusual and Compelling Urgency



- ▶ 10 USC 2304(c)(2), FAR 6.302-2
- ▶ 3 Keys
 - ◆ Impact Statement
 - ◆ How we got here does matter
 - ◆ Seek offers from as many potential sources as is practicable
- ▶ Don't mix authority arguments

Impact Statement



- ▶ Separate statement from requiring activity official is recommended
- ▶ Para 5, Reason for Authority Cited, and Para 10, Other Facts (if necessary)
- ▶ Describe the serious injury to the Government that would result from delayed award

How did we get here?



- ▶ Para 10, Other Facts
- ▶ Not a reason for unusual and compelling urgency:
 - ◆ Failure to plan
 - ◆ Failure to execute

...as many potential sources as is practicable ...



- ▶ Based on market research
- ▶ Minimalist competition
 - ◆ Emails and oral quotes
 - ◆ Minimal evaluation criteria
 - ◆ Consider information you have in hand
 - ◆ Days, not weeks
- ▶ What if practicable equals one?
 - ◆ Based on market research
 - ◆ A couple days is too long
 - ◆ Document in Other Facts

Odds and Ends



- ▶ 6.302-2(c)(2) permits award before justification approval
 - ◆ Talk to me first
 - ◆ Put a placeholder in the J&A Log
 - ◆ Don't forget about it!

The Justification



▶ AFARS 5153.9005, Format for a Justification

- ◆ 1. Contracting activity
- ◆ 2. Description of action
- ◆ 3. Description of supplies/services
- ◆ 4. Authority cited
- ◆ 5. Reason for authority cited
- ◆ 6. Efforts to obtain competition
- ◆ 7. Actions to increase competition
- ◆ 8. Market research
- ◆ 9. Interested sources

The Justification (2)



- ▶ AFARS 5153.9005, Format for a Justification
 - ◆ 10. Other facts
 - ◆ 11. Technical certification
 - ◆ 12. Requirements certification
 - ◆ 13. Fair and reasonable cost determination
 - ◆ 14. Contracting officer certification
 - ◆ Approval block